

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 11-20188

vs.

HON. GEORGE CARAM STEEH

BERNARD EDMOND,

Defendant.

_____ /

ORDER GRANTING DEFENDANT'S MOTION TO LIFT STAY OF
§ 2255 PROCEEDING AND TO APPOINT COUNSEL [ECF DOC 341]

This matter comes before the court on petitioner Bernard Edmond's motion to lift the stay of his 28 U.S.C. § 2255 proceeding and to appoint counsel pursuant to 18 U.S.C. § 3006(A)(2)(B). The basis of defendant's motion to vacate is whether the residual clause of 18 U.S.C. § 924(c) is unconstitutionally vague considering the reasoning of the Supreme Court in *Sessions v. Dimaya*, 138 S.Ct. 1204 (2018) and *Johnson v. United States*, 135 S.Ct. 2551 (2015). The Supreme Court has since held that the residual clause of § 924(c)(3)(B) is unconstitutionally vague. *United States v. Davis*, 139 S.Ct. 2319 (2019); *United States v. Ledbetter*, 929 F.3d 338, 361 (6th Cir. 2019) (setting aside 924(c) conviction that relied on residual clause).

In view of the Supreme Court's ruling in *Davis*, this court grants petitioner's motion to lift stay. Further, the court will appoint counsel to represent petitioner in his § 2255 proceeding. Now, therefore,

IT IS HEREBY ORDERED that petitioner's motion to lift stay and to appoint counsel is GRANTED.

So ordered.

Dated: October 17, 2019

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on October 17, 2019, by electronic and/or ordinary mail and also on Bernard Edmond #09837-039, USP Florence - High U.S. Penitentiary, P.O. Box 7000, Florence, CO 81226.

s/Barbara Radke
Deputy Clerk